

VZCZCXYZ0002
RR RUEHWEB

DE RUEHBU #1592/01 3281721
ZNR UUUUU ZZH
R 231721Z NOV 08
FM AMEMBASSY BUENOS AIRES
TO RUEHC/SECSTATE WASHDC 2519
INFO RUCNMER/MERCOSUR COLLECTIVE

UNCLAS BUENOS AIRES 001592

SIPDIS

WHA/PPC FOR SCOTT MILLER
G/TIP BARBARA FLECK

E.O. 12958: N/A
TAGS: [KTIP](#) [KCRM](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [AR](#)
SUBJECT: ARGENTINA: 2008 TIP INTERIM ASSESSMENT

REF: STATE 111306

¶1. Per Reftel instructions, below is post,s interim assessment of Argentina,s progress in its efforts to combat trafficking in persons (TIP). Our response is keyed to points found in reftel.

A) IMPLEMENTING THE RECENTLY ENACTED FEDERAL ANTI-TRAFFICKING LAW, INCLUDING ISSUANCE OF REGULATIONS OR OTHER MEASURES TO BRING THE NEW LAW FULLY INTO FORCE

Argentina has demonstrated progress in implementing the recently enacted federal anti-trafficking law. Since the law came into force on April 30, the Ministry of Justice (MOJ) has directed each of the four internal security agencies, the Federal Police, Gendarmeria (Border Patrol), Prefectura (Coast Guard), and the Airport Security Police to create a new anti-TIP investigations unit. Justice Minister Anibal Fernandez has also appointed his Chief of Cabinet, Dr. Silvina Zabala, to oversee the MOJ's First Responder Office for the Rescue and Immediate Assistance of Trafficking Victims which coordinates investigations and provides initial assistance to trafficking victims. According to Dr. Zabala, there is no need to issue implementing regulations, as the law is already in force.

B) INCREASING LAW ENFORCEMENT EFFORTS TO INVESTIGATE, PROSECUTE, CONVICT, AND SENTENCE TRAFFICKING OFFENDERS, INCLUDING CRIMINAL CASES AGAINST ALLEGEDLY COMPLICIT PUBLIC OFFICIALS

According to MOJ statistics provided to the Ambassador on November 14, internal security agencies under MOJ authority have conducted 118 raids, arrested 120 people suspected of human trafficking, and rescued 133 victims during the period of April 29 to November 13. The victims included 51 minors, 68 adults, and 14 victims whose age could not be determined. Dr. Zabala told poloff in a November 5 meeting that since her office began operations on August 6, 85 people had been arrested in connection with human trafficking, but only 33 remain in detention. She noted that her office has had difficulties with some federal judges who have not granted extensions to law enforcement authorities to give them more time to obtain testimony from potential trafficking victims. (Note: According to Argentina's Criminal Procedural Code, law enforcement officials may detain people for a maximum of 10 hours. In addition, law enforcement officials can only interrogate witnesses at the crime scene. After that, judges with jurisdiction over the case are in charge of summoning witnesses for questioning.) In one case, a federal judge not only ordered the release of suspects, but also instructed potential trafficking victims to return to their captors, she claimed. This demonstrates the need for advanced anti-TIP training for judges, she said. She pointed out, however, that the Ministry of Justice does not have control over the judiciary branch. Minister Fernandez reiterated the point in a November 14 meeting with Ambassador Wayne, when he noted that the actions of prosecutors were not under his authority.

Although Argentina has not prosecuted, convicted, or

sentenced trafficking offenders under the new TIP law, it is important to note that Argentina's judicial system is extremely overburdened, and members of the Supreme Court as well as NGOs deem the system's administrative and budgetary support as inadequate. As a result, suspects are often held in pre-trial detention for an average length of three years before their case is tried. At present, Argentina's judicial system is modeled after Europe's inquisitorial system. Although the 1994 constitution provides for transition to an accusatory system, implementing legislation has not been passed. The province of Cordoba transitioned to an accusatory system over 50 years ago and the province of Buenos Aires made the transition 10 years ago. Both provinces have judicial police in charge of investigations and answer to their respective provincial Attorney General.

At the federal level, investigative judges have been reluctant to give up their investigative authority. As a result, many features of the inquisitorial system remain. The GOA's goal is to implement the system at the federal level, which would transfer investigative responsibilities from federal judges to the prosecutors and help improve due process. In addition, there are efforts to improve judicial efficiency and improve case management, but the system needs a significant increase in the number of judges and prosecutors in order to make a real dent in the caseload. Trials for trafficking in persons cases are subject to these constraints.

C) IMPROVING EFFORTS TO GATHER LAW ENFORCEMENT DATA ON TRAFFICKING CASES THROUGHOUT THE COUNTRY

As reported above, the MOJ's anti-TIP unit is now collecting law enforcement data on trafficking cases throughout the country. Their Criminal Intelligence Unit intends to use this information to create a crime map to better assist in law enforcement efforts to crack down on human trafficking rings.

D) DEDICATING MORE GOVERNMENT RESOURCES FOR THE PROTECTION OF TRAFFICKING VICTIMS, PARTICULARLY SHELTER SERVICES

The MOJ continues to provide financial assistance to the Maria de los Angeles Foundation, which has opened a shelter in Tucuman province which provides comprehensive legal, medical, and psychological assistance to trafficking victims. This is the only shelter in Argentina dedicated to TIP victims.

According to Dr. Zabala, the MOJ's First Responder Office for the Rescue and Immediate Assistance of Trafficking Victims refers minor and adult trafficking victims rescued in the City or Province of Buenos Aires to the Ministry of Social Development's Secretariat for Children, Adolescents, and the Family (SENAF). SENAF is the agency responsible for referring victims to existing social and medical assistance programs. Victims located in other provinces are usually lodged in shelters run by the relevant provincial Human Rights Secretariat.

While the Prosecutor General's Office of Victim's Assistance has lost the intra-GOA lead in providing assistance to trafficking victims to the MOJ First Responder unit and SENAF, it continues to provide assistance on an as-needed basis.

In addition, the Prosecutor General has transferred TIP investigation responsibilities from the Unit to Investigate Crimes against Sexual Integrity and Trafficking in Persons (UFISEX) to the Unit to Assist Investigations into Kidnapping and Extortion Crimes (UFASE).

The MOJ conducted a training seminar for law enforcement officials in the northern provinces of Misiones (in October) and Salta (in November). In a meeting with the Ambassador on November 14, Minister Fernandez described his Ministry's efforts to train internal security forces and ensure that they do not blame trafficking victims for whatever illegal activities in which they might be involved. He said his instructions to security forces were to briefly question trafficking victims to try to ascertain relevant information

about trafficking networks before handing them over to social services for assistance. Fernandez also provided a copy of a Ministry-produced public awareness advertisement featuring a new "800" number hotline that will be launched nationally in the near future. The advertisement says: "Trafficking in Persons. You are not to Blame. You are the Victim. Denounce the Crime." He said he hoped that the campaign would not only raise public consciousness but help efforts to get judges and prosecutors fully engaged in anti-TIP efforts. Minister Fernandez expressed hope that the ad campaign would help bring more attention to forced labor situations too, as several of the ads focus on this phenomena.

WAYNE